

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD RICHARDSON,

Petitioner,

v.

CASE NO. 12-12750  
HONORABLE GEORGE CARAM STEEH

STATE OF MICHIGAN, et al,

Respondent.

\_\_\_\_\_ /

**OPINION AND ORDER DISMISSING ACTION UNDER  
FEDERAL RULE OF CIVIL PROCEDURE 41(A)(1)**

This is a *pro se* civil rights action filed by a Michigan state prisoner pursuant to 42 U.S.C. § 1983. Plaintiff's complaint essentially claims that the Michigan Department of Treasury wrongfully withheld pension payments for a period of nine months, causing his wife to lose the marital home. Another complaint, making the same allegations, was filed with this Court under Case No. 2:12-cv-12362, and an order directing service on the defendants has already been entered. Plaintiff has filed a letter with the Court asking that Case No. 2:12-cv-12750—for which there is an outstanding deficiency order—be voluntarily dismissed.

Federal Rule of Civil Procedure 41(a)(1) provides that "the plaintiff may dismiss an action without a court order by filing; (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared." FED. R. CIV. P. 41(a)(1)(A)(i), (ii). The Court has no discretion to deny a voluntary dismissal so long as notice of the dismissal is filed before

an answer or motion for summary judgment is served. *Aamot v. Kassel*, 1 F.3d 441, 443 (6th Cir.1993). Because the defendants have not even been served with the complaint, the Court will grant Plaintiff's request to dismiss the action.

Accordingly, the Court orders that the complaint is voluntarily dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

**IT IS SO ORDERED.**

Dated: July 30, 2012

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record and upon Donald Richardson #719076, Carson City Correctional Facility, 10274 Boyer Road, Carson City, MI 48811, on July 30, 2012, by electronic and/or ordinary mail.

s/Barbara Radke  
Deputy Clerk